

**2005 DRAFTING REQUEST**

**Bill**

Received: **12/21/2004**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Percy**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - air quality**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Percy, BB0335 -

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**Topic:**

Changes to air management fees

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 01/05/2005	csicilia 01/06/2005	rschluet 01/06/2005	_____	lnorthro 01/06/2005		State
/1	btradewe 01/11/2005	csicilia 01/11/2005	rschluet 01/11/2005	_____	mbarman 01/11/2005		State
/2	btradewe 01/26/2005	wjackson 01/26/2005	jfrantze 01/26/2005	_____	lnorthro 01/26/2005		

FE Sent For:

<END>

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/1	btradewe 01/11/2005	csicilia 01/11/2005	rschluet 01/11/2005	_____	mbarman 01/11/2005		

FE Sent For:

12 WJ 1/26  
J6/126 J6/RS  
1 26  
<END>

**Barman, Mike**

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**From:** Grant, Peter  
**Sent:** Tuesday, January 11, 2005 1:07 PM  
**To:** Hogan, Rebecca  
**Cc:** Barman, Mike  
**Subject:** RE: Submitted: LRB 05-1593/1 Topic: Carrying forward a school district's unused revenue limit authority?body=

Sorry about that. Our program assistants are aware of the problem and are correcting it.

-----Original Message-----

**From:** Hogan, Rebecca  
**Sent:** Tuesday, January 11, 2005 9:36 AM  
**To:** Grant, Peter  
**Subject:** Submitted: LRB 05-1593/1 Topic: Carrying forward a school district's unused revenue limit authority?body=

Peter, I reviewed the draft that was sent to us. I think there was a mistake. This draft we received relates to entry on private property by dogs used to bear hunt. I hope I requested the carry forward bill that Debi Towns introduced. The headline was correct but the draft was not.

Rebecca Hogan  
Office of Senator Luther Olsen  
608-266-0751

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Addl. Drafters:

Subject: **Environment - air quality**

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Submit via email: **NO**

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DOA:.....Percy, BB0335 -

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See Attached

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/?							
/P1	btradewe 01/05/2005	csicilia 01/06/2005	rschluet 01/06/2005		Inorthro 01/06/2005		

FE Sent For:

1 gs 1/11  
OS  
P65  
<END>

2005 DRAFTING REQUEST

Bill

Received: 12/21/2004

Received By: btradewe

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Percy

This file may be shown to any legislator: NO

Drafter: btradewe

May Contact: DNR

Addl. Drafters:

Subject: Environment - air quality

Extra Copies:

Submit via email: NO

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Pre Topic:

DOA:.....Percy, BB0335 -

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Topic:

Changes to air management fees

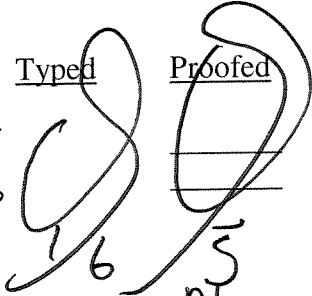
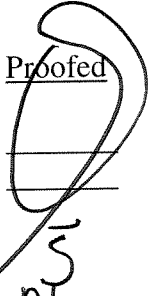
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Instructions:

See Attached

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Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	btradewe	Pl cjs 1/5 06					

FE Sent For:

END>

## 2005-07 Budget Bill Statutory Language Drafting Request

- Topic: DNR Air Management Permit Fees
- Tracking Code: BB0335
- SBO team: Environmental and Commercial Resources
- SBO analyst: Doug Percy
  - Phone: 266-1039
  - Email: doug.percy@doa.state.wi.us
- Agency acronym: DNR
- Agency number: 370

**CORRESPONDENCE MEMORANDUM****STATE OF WISCONSIN  
Department of Administration****Date:** December 21, 2004**To:** Steve Miller, Chief  
Legislative Reference Bureau (LRB)**From:** <sup>6-1039</sup> Doug Percy, Executive Budget and Policy Analyst  
State Budget Office**Subject:** DNR Air Management Statutory Language Request

Create new permits for the air management program. Attached are the suggested changes that were received from DNR.

<u>Issue</u>	<u>Status</u>	<u>Analyst</u>	<u>Priority</u>
Air permits	Needs drafting	Doug	High

### **Changes to Permitting:**

With the creation of registration and general permits, and possibly other alternative regulatory tools in the future, we would change the way we currently assess fees to non-Title V sources.

- a. If a minor source has a facility-wide registration or general permit (or other regulatory tool in the future), they would pay an annual permit fee not to exceed \$2,000 per year. The amount of the fee may vary from permit type but will not exceed the maximum.
- b. If a minor source is required to report emission fees but emit less than 10 tons per year, they would be eligible for an exemption. The annual fee for exemptions would not exceed \$400 per year.
- c. If a minor source maintains a "traditional" permit, they would pay an annual permit fee not to exceed \$4,000 per year.
- d. Minor sources would be assessed the above fees **instead of** the annual emission fee and new source permitting fees (if changes are within the boundaries of their permit).
- e. Registration and general permits would allow sources more flexibility to make changes.

### **Financial Impact to Industry:**

#### **1. Annual Emission Fee:**

- a. Title V sources would continue to pay the annual emission fee of \$35.71 per ton. The DNR will not be requesting an annual escalator.
- b. Non-Title V sources would not pay the annual emission fee but an annual permit fee instead.

Statutory adjustment necessary for funding of non-Title V source programs using facility fees and fees for sources regulated under other regulatory tools:

**285.01(X)** "Entire facility" means any stationary source, or any group of stationary sources, that is located on one or more contiguous or adjacent properties and is under common control of the same person or persons under common control.

**285.01(X)** "Part 70 source" means a stationary source that is required to obtain an operation permit under the federal clean air act. The department shall promulgate rules to further define which sources are part 70 sources under the federal clean air act.

**285.01(Y)** "Non-Part 70 source" means a stationary source required to obtain an operation permit that is not a Part 70 source.

**285.69(1) RULE MAKING.** The department may promulgate rules for the payment and collection of reasonable fees for all of the following (this is current statutory sub.(1)(intro.):

**Amend 285.69(1)(c) Request for exemption.** Reviewing and acting upon any request for an exemption from the requirement to obtain an air pollution control permit.

Create 285.69(1)(d) The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary source that is exempt from the requirement to obtain an operation permit under s. 285.62, and rules promulgated thereunder, and that had actual emissions of a regulated pollutant in excess of 3 tons per year in the preceding year, not to exceed \$400 per year.

Create (1)(e) Request for waiver of construction permit requirements. Reviewing and acting upon any request for a waiver of construction permit requirements under s. 285.60(5m), not to exceed \$400 per request. [Note: The fees collected under 285.69(1)(e) should be credited to the Air management – permit review and enforcement (new source) appropriation under s. 20.370 (2) (ci).

**Amend 285.69(2) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PART 70 PERMITS.** (a) The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary Part 70 source for which an operation permit is required. The rules shall provide all of the following:

Create 285.69(2)(a)12. That the department may not charge a fee under this subsection to an owner or operator of a stationary source required to pay fees under sub. (2m).

Create 285.69(2m)(a), (b), (c) and (d)

*nonpart 70*  
(2m)(a) Registration operation permits. The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary source where the entire facility was regulated by a registration operation permit under s. 285.60(2g) in the preceding year, not to exceed \$2,000 per year.

(b) General operation permits. The department shall promulgate rules for the payment and collection of fees by the owner or operator of a non-Part 70 stationary source where the entire facility was regulated by a general operation permit under s. 285.60(3) in the preceding year, not to exceed \$2,000 per year.

(c) Operation permits for non-Part 70 sources. The department shall promulgate rules for the payment and collection of fees by the owner or operator of a non-Part 70 source regulated under an individual operation permit in the previous year, not to exceed \$4,000 per year.

(d) Permit Streamlining Programs. The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary source that was regulated by any innovative permit streamlining tool developed under s. 285.60(10) or any other law in the preceding year.

Create s. 285.69(8) (or should it be nonstatutory provision?):

Notwithstanding the requirements in s. 285.69(1)(c) and (d) and (2m) to promulgate rules, prior to the promulgation of the rules, the department may require payment of the maximum fees specified in s. 285.69(1)(c) and (d) and (2m) for the activities authorized in those subsections.

Create 285.69 (2m)(e) The fees collected under s. 285.69 (2m) shall be credited to the appropriation under s. 20.370 (2) (xx) for the following:

(a) The costs of reviewing and acting on applications for operation permits; implementing and enforcing operation permits except for court costs or other costs associated with an enforcement action; monitoring emissions and ambient air quality preparing rules and materials to assist persons who are subject to the operation permit program; ambient air quality modeling; preparing and maintaining emission inventories; and any other direct and indirect costs of the operation permit program.

(b) Costs of any other activities related to stationary sources of air contaminants.

Create 20.370 (2) (xx) Air management – non-Part 70 stationary sources. All moneys received from fees collected under s. 285.69(1)(d) and 285.69(2m)(e) shall be credited to this appropriation. In addition, all monies received under s. 285.69 (2)(c) not appropriated under 20.370 (2) (bg) may be credited to this appropriation.

WE COULD CLEAN UP REST OF THIS SECTION 285.69(2): REPEAL (2)(a) 1-4 (KEEP  
(2)(a)(intro.))  
AMEND 5.,  
REPEAL 6.,  
KEEP 7.-11.  
REPEAL (b)



State of Wisconsin  
2005 - 2006 LEGISLATURE

Wanted 2/6-Thurs

LRB-1360/P1

RCT:/:....

gs

DOA:.....Percy, BB0335 - Changes to air management fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Note

st ✓  
secret ✓

Do NOT GEN

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau* ✓

This is a preliminary draft. An analysis will be provided in a later version.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 20.370 (2) (bg) ✓ of the statutes is amended to read:

3 20.370 (2) (bg) *Air management — stationary sources*. The amounts in the  
4 schedule for purposes related to stationary sources of air contaminants for which an  
5 operation permit is required under the federal clean air act as specified in s. 285.69  
6 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc) to the  
7 appropriation account under s. 20.143 (1) (kc). All moneys received from fees imposed  
8 under s. 285.69 (2) (a) and (e), except moneys appropriated under subs. (3) (bg), (8)

- 1 (mg) and (9) (mh), and all moneys received from fees imposed under s. 285.69 (7) shall  
2 be credited to this appropriation.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 484 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1999 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 1851; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327.

- 3 **SECTION 2. 20.370 (2) (bh) of the statutes is created to read:**

- 4 20.370 (2) (bh) *Air management — state permit sources.* All moneys received  
5 from fees collected under s. 285.69 (1g) and (2m) for purposes related to stationary  
6 sources of air contaminants for which an operation permit is required under s. 285.60  
7 but not under the federal clean air act as specified in s. 285.69 (2m) (d).

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

- 8 **SECTION 3. 285.01 (18m) of the statutes is created to read:**

- 9 285.01 (18m) "Entire facility" means all stationary sources that are under the  
10 control of one person or under the control of persons who are under common control  
11 and that are located on contiguous properties.

- 12 **SECTION 4. 285.69 (1) (d) of the statutes is created to read:**

- 13 285.69 (1) (d) *Request for waiver of construction permit requirement.*  
14 Reviewing and acting upon a request for a waiver under s. 285.62 (5m) of the  
15 requirement to obtain a construction permit. The department may not require  
16 payment of a fee under this paragraph of more than \$400 per request.

- 17 **SECTION 5. 285.69 (1g) of the statutes is created to read:**

- 18 285.69 (1g) **ANNUAL FEES FOR OPERATION PERMIT EXEMPTION.** The department  
19 shall promulgate rules for the payment and collection of fees, not to exceed \$400 per  
20 year, by the owner or operator of a stationary source that is exempt from the

1 requirement to obtain an operation permit under s. 285.62 and that had actual  
2 emissions of a regulated pollutant in excess of 3 tons in the preceding year.

3 **SECTION 6.** 285.69 (2) (title) of the statutes is amended to read:

4 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER  
5 FEDERAL LAW.

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33.

6 **SECTION 7.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

7 285.69 (2) (a) (intro.) The department shall promulgate rules for the payment  
8 and collection of fees by the owner or operator of a stationary source for which an  
9 operation permit is required under the federal clean air act. The rules shall provide  
10 all of the following:

History: 1979 c. 34, 221; 1987 a. 27; 1989 a. 56; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27; 1995 a. 227 ss. 495 to 499; Stats. 1995 s. 285.69; 1997 a. 27, 35; 1999 a. 9; 2001 a. 16; 2003 a. 33.

11 **SECTION 8.** 285.69 (2m) of the statutes is created to read:

12 285.69 (2m) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER STATE  
13 LAW. (a) *Registration operation permits.* The department shall promulgate rules for  
14 the payment and collection of fees, not to exceed \$2,000 per year, by the owner or  
15 operator of ~~a stationary source~~ <sup>an entire facility</sup> for which an operation permit is required under s.  
16 285.60 but not under the federal clean air act if the entire facility was covered by a  
17 registration <sup>✓</sup> ~~operation~~ <sup>✓</sup> permit under s. 285.60 (2g) in the preceding year.  
✓ stat: leave as typed

18 (b) *General operation permits.* The department shall promulgate rules for the  
19 payment and collection of fees, not to exceed \$2,000 per year, by the owner or operator  
20 of ~~a stationary source~~ <sup>an entire facility</sup> for which an operation permit is required under s. 285.60 but  
21 not under the federal clean air act if the entire facility was covered by a general  
22 ~~operation~~ <sup>✓</sup> permit under s. 285.60 (3) in the preceding year.  
✓ stat: leave as typed

STET: leave as typed

(c) *Operation permits for other sources.* The department shall promulgate rules for the payment and collection of fees, not to exceed \$4,000 per year, by the owner or operator of <sup>an entire facility</sup> ~~a stationary source~~ for which an operation permit is required under s. 285.60 but not under the federal clean air act if the entire facility was not covered by a registration <sup>STET: leave as typed</sup> ~~operation~~ permit under s. 285.60 (2g) or by a general <sup>STET: leave as typed</sup> ~~operation~~ permit under s. 285.60 (3) in the preceding year.

(d) *Use of fees.* The fees collected under this subsection and sub. (1g) shall be credited to the appropriation under s. 20.370 (2) (bh) for the following:

1. The costs of reviewing and acting on applications for operation permits; implementing and enforcing operation permits except for court costs or other costs associated with an enforcement action; monitoring emissions and ambient air quality; preparing rules and materials to assist persons who are subject to the operation permit program; ambient air quality modeling; preparing and maintaining emission inventories; and any other direct and indirect costs of the operation permit program.

2. Costs of any other activities related to stationary sources of air contaminants.

#### SECTION 9135. Nonstatutory provisions; natural resources.

(1) AIR MANAGEMENT FEES. Before <sup>2m</sup> July 1, 2008, or <sup>before</sup> the date on which the rules under section 285.69 (1) (d), (1g), and (2) of the statutes, as created by this act, take effect, whichever is earlier, the department of natural resources may require payment of fees authorized under those provisions in the maximum amount authorized, notwithstanding the requirement that the fees be established by rule.

(END)

On file

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1360/P1dn

RCT: /:....

g's

Doug Percy:

This is a preliminary draft of the proposal relating to changing air management fees. ✓

I did not use the terms "Part 70 source" and "non-Part 70 source" because, while they make sense to those familiar with the air program, they are jargon and confusing to others (especially because the definitions would not be in the section in which the terms are used). This does not affect DNR's ability to use those terms in its rules. ✓

The language provided by DNR specified that the fees imposed on sources for which the Clean Air Act requires permits (federal sources) "not appropriated under s. 20.370 (2) (bg)" could be credited to the new appropriation for fees from sources for which permits are required only under state law (nonfederal sources). In discussions with Lance Potter, I pointed out that s. 20.370 (2) (bg) was not changed in the proposed language and, thus, that under the proposed language the law would still require that all fees imposed on federal sources not appropriated under s. 20.370 (3) (bg), (8) (mg), or (9) (mh) be credited to s. 20.370 (2) (bg). Because the proposed language also did not narrow the purposes of s. 20.370 (2) (bg), I suggested that the moneys in s. 20.370 (2) (bg) could be used for nonfederal sources and there would be no need to "move" money from s. 20.370 (2) (bg) to another appropriation for that purpose. However, I am informed that the purposes of s. 20.370 (2) (bg) should be narrowed to only relate to federal sources. ✓

Under chapter 20, if funds are transferred from one appropriation to another, the receiving appropriation must be a program revenue/service appropriation. Thus, it is not permissible to transfer money from s. 20.370 (2) (bg) to the new s. 20.370 (2) (bh). The draft could create a new program revenue/service appropriation to receive moneys transferred from s. 20.370 (2) (bg) for nonfederal sources. To use this approach, language would also be needed to describe how much money could be transferred and under what circumstances.

Another approach to making some of the federal source fee money available for uses related to nonfederal sources would be to amend s. 20.370 (2) (bg), removing the "all moneys received" so that the appropriation would no longer receive all of the fees not appropriated elsewhere. This would make s. 20.370 (2) (bg) like s. 20.370 (3) (bg). Then the new appropriation under s. 20.370 (2) (bh) would be changed to receive all of the federal source fees that exceed the amounts in the schedule under s. 20.370 (2) (bg), (3) (bg), (8) (mg), and (9) (mh) in addition to the nonfederal source fees.

The other approach that has occurred to me would be to develop language that keeps some of the money from the fees paid by federal sources from being credited to s. 20.370 (2) (bg) in the first place. Again, language would be needed to determine the amount of money that would go to the nonfederal sources. I have not heard back from DNR about the preferred approach to making some of the federal source fees available for regulating nonfederal sources, but wanted to get a preliminary version of the proposal out. This version of the draft limits the use of federal source fees to purposes related <sup>3</sup> to federal sources. <sup>bg</sup> <sup>8</sup> <sup>mg</sup> <sup>9</sup> <sup>mh</sup>

⑨ I also need to know whether the purposes of s. 20.370 (3) (bg), (8) (mg), and (9) (mh) need to be narrowed to ~~only~~ relate to federal sources.

I created the language for the annual fee for sources exempt from obtaining an operation permit as s. 285.69 (1g) instead of as s. 285.69 (1) (d) because the proposed language did not flow from the introduction to s. 285.69 (1) and because it made getting all of the fees into the proper appropriations easier. The fees for construction permit waivers (see proposed s. 285.69 (1) (d) in this draft) will be credited to the appropriation under s. 20.370 (2) (ci) because all moneys received from fees imposed under s. 285.69 (1) and (5), except moneys appropriated under s. 20.370 (2) (bi), are credited to that appropriation. ✓

(a)  
I did not create proposed s. 285.69 (2) (a) 12. because it did not flow from the introduction and because it seemed redundant. The amendment of the introduction to s. 285.69 (2) provides that the fees only apply to federal sources and new s. 285.69 (2m) only applies to nonfederal sources. ✓

Note  
insert  
handwritten  
The proposed language would have created s. 285.69 (2m) (d), requiring DNR to promulgate rules for fees for sources "regulated by any innovative permit streamlining tool under s. 285.60 (10) or any other law in the preceding year." This language seems problematic to me. For one thing it is unclear. I understand that is probably because the language is intended to apply to "tools" that have not been created yet. More significantly, I do not see any authority under s. 285.60 (10) for DNR to come up with a different kind of permit or other new kind of regulatory tool. Any actions taken under that provision must be consistent with the rest of ch. 285 and there does not seem to be any language in ch. 285 that would allow for a kind of permit other than those for which the draft provides fee setting authority or for a type of regulatory tool other than a permit (or a permit exemption, for which fee setting authority is provided in the draft). If future legislation provides for new regulatory tools, fee setting authority should be provided in that legislation. I need to know if I am missing some existing regulatory authority which makes language like proposed s. 285.69 (2m) (d) necessary. ✓

I placed the authority for DNR to charge the maximum fees until it promulgates rules in a nonstatutory provision to avoid cluttering up the statutes. In order to place the authority in a nonstatutory provision, though, I had to include a deadline. If there is a doubt that DNR can get the rules in place by July 1, 2008, the authority will need to go into the statutes. In that case (or in any case), you may want nonstatutory language giving DNR a deadline for submitting proposed rules for the fees.

Please let me know if you have any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.state.wi.us



DNote insert



# I am not certain that s. 285.69(2m)(c), as drafted, carries out DNR's intent. I did not feel that I could just use the term "individual permit" because that, it is not clear from ~~the~~ <sup>statutes</sup> the statutes what that means.

As drafted, s. 285.69(2m)(c) reflects this ~~guess~~ <sup>guess</sup> as to DNR's intent: if you have a site ~~with one or more nonfederal sources on it and at least one of those nonfederal sources is covered by an operation permit that is not a registration permit or a general permit, the annual fee for all of the nonfederal sources on that site is \$4,000.~~ <sup>incorrect,</sup> If that is ~~incorrect,~~ <sup>incorrect,</sup> ~~then~~ I need an explanation of what DNR's intent really is.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1360/P1dn  
RCT:cjs:rs

January 6, 2005

Doug Percy:

This is a preliminary draft of the proposal relating to changing air management fees.

I did not use the terms "Part 70 source" and "non-Part 70 source" because, while they make sense to those familiar with the air program, they are jargon and confusing to others (especially because the definitions would not be in the section in which the terms are used). This does not affect DNR's ability to use those terms in its rules.

The language provided by DNR specified that the fees imposed on sources for which the Clean Air Act requires permits (federal sources) "not appropriated under s. 20.370 (2) (bg)" could be credited to the new appropriation for fees from sources for which permits are required only under state law (nonfederal sources). In discussions with Lance Potter, I pointed out that s. 20.370 (2) (bg) was not changed in the proposed language and, thus, that under the proposed language the law would still require that all fees imposed on federal sources not appropriated under s. 20.370 (3) (bg), (8) (mg), or (9) (mh) be credited to s. 20.370 (2) (bg). Because the proposed language also did not narrow the purposes of s. 20.370 (2) (bg), I suggested that the moneys in s. 20.370 (2) (bg) could be used for nonfederal sources and there would be no need to "move" money from s. 20.370 (2) (bg) to another appropriation for that purpose. However, I am informed that the purposes of s. 20.370 (2) (bg) should be narrowed to relate only to federal sources.

Under chapter 20, if funds are transferred from one appropriation to another, the receiving appropriation must be a program revenue-service appropriation. Thus, it is not permissible to transfer money from s. 20.370 (2) (bg) to the new s. 20.370 (2) (bh). The draft could create a new program revenue-service appropriation to receive moneys transferred from s. 20.370 (2) (bg) for nonfederal sources. To use this approach, language would also be needed to describe how much money could be transferred and under what circumstances.

Another approach to making some of the federal source fee money available for uses related to nonfederal sources would be to amend s. 20.370 (2) (bg), removing the "all moneys received" so that the appropriation would no longer receive all of the fees not appropriated elsewhere. This would make s. 20.370 (2) (bg) like s. 20.370 (3) (bg). Then the new appropriation under s. 20.370 (2) (bh) would be changed to receive all of the federal source fees that exceed the amounts in the schedule under s. 20.370 (2) (bg), (3) (bg), (8) (mg), and (9) (mh) in addition to the nonfederal source fees.

The other approach that has occurred to me would be to develop language that keeps some of the money from the fees paid by federal sources from being credited to s. 20.370 (2) (bg) in the first place. Again, language would be needed to determine the amount of money that would go to the nonfederal sources. I have not heard back from DNR about the preferred approach to making some of the federal source fees available for regulating nonfederal sources, but wanted to get a preliminary version of the proposal out. This version of the draft limits the use of federal source fees to purposes related to federal sources.

I also need to know whether the purposes of s. 20.370 (3) (bg), (8) (mg), and (9) (mh) need to be narrowed to relate only to federal sources.

I created the language for the annual fee for sources exempt from obtaining an operation permit as s. 285.69 (1g) instead of as s. 285.69 (1) (d) because the proposed language did not flow from the introduction to s. 285.69 (1) and because it made getting all of the fees into the proper appropriations easier. The fees for construction permit waivers (see proposed s. 285.69 (1) (d) in this draft) will be credited to the appropriation under s. 20.370 (2) (ci) because all moneys received from fees imposed under s. 285.69 (1) and (5), except moneys appropriated under s. 20.370 (2) (bi), are credited to that appropriation.

I did not create proposed s. 285.69 (2) (a) 12. because it did not flow from the introduction and because it seemed redundant. The amendment of the introduction to s. 285.69 (2) (a) provides that the fees only apply to federal sources and new s. 285.69 (2m) only applies to nonfederal sources.

I am not certain that s. 285.69 (2m) (c), as drafted, carries out DNR's intent. I did not feel that I could just use the term "individual permit" because it is not clear from the statutes what that means. As drafted, s. 285.69 (2m) (c) reflects this guess as to DNR's intent: if you have a site with one or more nonfederal sources on it and at least one of those nonfederal sources is covered by an operation permit that is not a registration permit or a general permit, the annual fee for all of the nonfederal sources on that site is \$4,000. If that is incorrect, I need an explanation on what DNR's intent really is.

The proposed language would have created s. 285.69 (2m) (d), requiring DNR to promulgate rules for fees for sources "regulated by any innovative permit streamlining tool under s. 285.60 (10) or any other law in the preceding year." This language seems problematic to me. For one thing it is unclear. I understand that is probably because the language is intended to apply to "tools" that have not been created yet. More significantly, I do not see any authority under s. 285.60 (10) for DNR to come up with a different kind of permit or other new kind of regulatory tool. Any actions taken under that provision must be consistent with the rest of ch. 285 and there does not seem to be any language in ch. 285 that would allow for a kind of permit other than those for which the draft provides fee setting authority or for a type of regulatory tool other than a permit (or a permit exemption, for which fee setting authority is provided in the draft). If future legislation provides for new regulatory tools, fee setting authority should be provided in that legislation. I need to know if I am missing some existing regulatory authority which makes language like proposed s. 285.69 (2m) (d) necessary.

I placed the authority for DNR to charge the maximum fees until it promulgates rules in a nonstatutory provision to avoid cluttering up the statutes. In order to place the authority in a nonstatutory provision, though, I had to include a deadline. If there is a doubt that DNR can get the rules in place by July 1, 2008, the authority will need to go into the statutes. In that case (or in any case), you may want nonstatutory language giving DNR a deadline for submitting proposed rules for the fees.

Please let me know if you have any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.state.wi.us](mailto:becky.tradewell@legis.state.wi.us)

1/10/05 - Mtg. with Doug Percy + Kirsten Grinde (DOA), A1  
Shoa (DOA) + Pat Hendel (Gov's office)

1. Don't amend (a) (b) - and there's no need to move  
\$ into the new appropriation

2. Make flat fees - no rule-making required - \$300, \$300,  
\$1,500, \$1,500, + \$3,000

3. Effective date 1/1/06



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1360/11

RCT:cjs:rs

m/11

slays

DOA:.....Percy, BB0335 - Changes to air management fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

*This is a preliminary draft. An analysis will be provided in a later version.*

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 20.370 (2) (bg) of the statutes is amended to read:

3 20.370 (2) (bg) *Air management — stationary sources.* The amounts in the  
4 schedule for purposes related to stationary sources of air contaminants for which an  
5 operation permit is required under the federal clean air act as specified in s. 285.69  
6 (2) (c) and to transfer the amounts appropriated under s. 20.143 (1) (kc) to the  
7 appropriation account under s. 20.143 (1) (kc). All moneys received from fees  
8 imposed under s. 285.69 (2) (a) and (e), except moneys appropriated under subs. (3)  
9 (bg), (8) (mg) and (9) (mh), and all moneys received from fees imposed under s. 285.69  
10 (7) shall be credited to this appropriation.

1 SECTION 2. 20.370 (2) (bh) of the statutes is created to read:

2 20.370 (2) (bh) *Air management — state permit sources*. All moneys received  
3 from fees collected under s. 285.69 (1g) and (2m) for purposes related to stationary  
4 sources of air contaminants for which an operation permit is required under s. 285.60  
5 but not under the federal clean air act as specified in s. 285.69 (2m) (d). ✓

\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6 SECTION 3. 285.01 (17m) of the statutes is created to read:

7 285.01 (17m) "Entire facility" means all stationary sources that are under the  
8 control of one person or under the control of persons who are under common control  
9 and that are located on contiguous properties.

10 SECTION 4. 285.69 (1) (d) of the statutes is created to read:

11 285.69 (1) (d) *change to CS - no italics* Request for waiver of construction permit requirement.

12 *An owner or operator that requests*  
~~Reviewing and acting upon a request for a waiver under s. 285.60 (5m) of the~~  
13 ~~requirement to obtain a construction permit. The department may not require~~  
14 ~~payment of a fee under this paragraph of more than \$400 per request.~~  
*of \$300 shall pay to the*

15 SECTION 5. 285.69 (1g) of the statutes is created to read:

16 285.69 (1g) ANNUAL FEES FOR OPERATION PERMIT EXEMPTION. *The department*  
17 *shall promulgate rules for the payment and collection of fees, not to exceed \$400 per*  
18 *year, by the owner or operator of a stationary source that is exempt from the*  
19 *requirement to obtain an operation permit under s. 285.62 and that had actual*  
20 *emissions of a regulated pollutant in excess of 3 tons in the preceding year.*

21 SECTION 6. 285.69 (2) (title) of the statutes is amended to read:

22 285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER

23 FEDERAL LAW.

*shall pay to the department a fee of \$300 per year if the stationary source*

shall pay to the department a fee of \$1,500 per year

SECTION 7. 285.69 (2) (a) (intro.) of the statutes is amended to read:

285.69 (2) (a) (intro.) The department shall promulgate rules for the payment and collection of fees by the owner or operator of a stationary source for which an operation permit is required under the federal clean air act. The rules shall provide all of the following:

SECTION 8. 285.69 (2m) of the statutes is created to read:

285.69 (2m) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER STATE

LAW. (a) *Registration operation permits.* The department shall promulgate rules for

the payment and collection of fees, not to exceed \$2,000 per year, by the owner or  
operator of an entire facility for which an operation permit is required under s.  
285.60 but not under the federal clean air act if the entire facility was covered by a  
registration operation permit under s. 285.60 (2g) in the preceding year.

(b) *General operation permits.* The department shall promulgate rules for the  
payment and collection of fees, not to exceed \$2,000 per year, by the owner or operator  
of an entire facility for which an operation permit is required under s. 285.60 but not  
under the federal clean air act if the entire facility was covered by a general operation  
permit under s. 285.60 (3) in the preceding year.

(c) *Operation permits for other sources.* The department shall promulgate rules  
for the payment and collection of fees, not to exceed \$4,000 per year, by the owner or  
operator of an entire facility for which an operation permit is required under s.  
285.60 but not under the federal clean air act if the entire facility was not covered  
by a registration operation permit under s. 285.60 (2g) or by a general operation  
permit under s. 285.60 (3) in the preceding year.

(d) *Use of fees.* The fees collected under this subsection and sub. (1g) shall be  
credited to the appropriation <sup>account</sup> under s. 20.370 (2) (bh) for the following:

shall pay to the department  
a fee of \$3,000 per year

as they  
operation permit is required  
under s. 285.60 but not under the  
federal clean air act  
purposes relate  
to stationary sources  
for which an

1           1. The costs of reviewing and acting on applications for operation permits;  
2           implementing and enforcing operation permits except for court costs or other costs  
3           associated with an enforcement action; monitoring emissions and ambient air  
4           quality; preparing rules and materials to assist persons who are subject to the  
5           operation permit program; ambient air quality modeling; preparing and  
6           maintaining emission inventories; and any other direct and indirect costs of the  
7           operation permit program.

8           2. Costs of any other activities related to stationary sources of air  
9           contaminants.

Insert  
4-9  
10           **SECTION 9135. Nonstatutory provisions; natural resources.**

11           (1) AIR MANAGEMENT FEES. Before July 1, 2008, or before the date on which the  
12           rules under section 285.69 (1) (d), (1g), and (2m) of the statutes, as created by this  
13           act, take effect, whichever is earlier, the department of natural resources may  
14           require payment of fees authorized under those provisions in the maximum amount  
15           authorized, notwithstanding the requirement that the fees be established by rule.

16           (END)

**Analysis insert**

**ENVIRONMENT** ✓

**AIR QUALITY** ✓

Currently, the federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires certain stationary sources of air pollution, such as large factories, to obtain operation permits. State law requires additional stationary sources of air pollution to obtain operation permits. Under current law, DNR promulgates rules setting fees to be paid by the operator of any stationary source for which an operation permit is required. The fees are based on the amount of pollutants that a stationary source emits.

This bill sets fees to be paid by the operator of a stationary source of air pollution that is required to obtain an operation permit under state law, but not under the Clean Air Act. The fees for a stationary source covered by a simplified permit are \$1,500 per year and the fees for a stationary source covered by a traditional permit are \$3,000 per year. The bill set fees of \$300 per year for stationary sources that are exempt from the requirement to obtain an operation permit but that emit more than three tons of a regulated pollutant in a year. The bill also sets fees of \$300 to be paid by a person seeking a waiver of the requirement to obtain a permit for the construction or modification of a stationary source of air pollution. The bill does not change the provisions concerning fees for operation permits that are required under the Clean Air Act.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill. ✓

**Insert 2-5**

**SECTION 1.** 20.370 (2) (ci) of the statutes is amended to read:

20.370 (2) (ci) *Air management — permit review and enforcement.* The amounts in the schedule for any purpose specified under s. 285.69 (1) or (5), except for purposes described in par. (bi), and for other activities to reduce air pollution, as provided in s. 285.69 (6). All moneys received from fees imposed under s. 285.69 (1), (1d) ✓ and (5), except moneys appropriated under par. (bi), shall be credited to this appropriation.

**History:** 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426;

1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (i); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327.

**Insert 4-9**

**SECTION 9435. Effective dates; natural resources.**

(1) AIR MANAGEMENT FEES. The treatment of sections 20.370 (2) (bh) and (ci), 285.01 (17m), and 285.69 (1d), (1g), (2) (title) and (a) (intro.), and (2m) of the statutes takes effect on January 1, 2006.

1/24/05 Per Doug Percy - Change appropriation from continuing  
to annual.  
RET



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1360/1 2

RCT:cjs:rs

twg/vmr

DOA:.....Percy, BB0335 - Changes to air management fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Today  
please

1 Do NOT GEN  
AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**AIR QUALITY**

Currently, the federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires certain stationary sources of air pollution, such as large factories, to obtain operation permits. State law requires additional stationary sources of air pollution to obtain operation permits. Under current law, DNR promulgates rules setting fees to be paid by the operator of any stationary source for which an operation permit is required. The fees are based on the amount of pollutants that a stationary source emits.

This bill sets fees to be paid by the operator of a stationary source of air pollution that is required to obtain an operation permit under state law, but not under the Clean Air Act. The fees for a stationary source covered by a simplified permit are \$1,500 per year and the fees for a stationary source covered by a traditional permit are \$3,000 per year. The bill set fees of \$300 per year for stationary sources that are exempt from the requirement to obtain an operation permit but that emit more than three tons of a regulated pollutant in a year. The bill also sets fees of \$300 to be paid by a person seeking a waiver of the requirement to obtain a permit for the construction or modification of a stationary source of air pollution. The bill does not change the provisions concerning fees for operation permits that are required under the Clean Air Act.

shall be credited to this  
appropriation account

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 20.370 (2) (bh) of the statutes is created to read:

2           20.370 (2) (bh) *Air management — state permit sources.* All moneys received  
3           from fees collected under s. 285.69 (1g) and (2m) <sup>the amounts in the schedule</sup> for purposes related to stationary  
4           sources of air contaminants for which an operation permit is required under s. 285.60  
5           but not under the federal clean air act as specified in s. 285.69 (2m) (d). <sup>move</sup>

↓           \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

6           **SECTION 2.** 20.370 (2) (ci) of the statutes is amended to read:

7           20.370 (2) (ci) *Air management — permit review and enforcement.* The  
8           amounts in the schedule for any purpose specified under s. 285.69 (1) or (5), except  
9           for purposes described in par. (bi), and for other activities to reduce air pollution, as  
10          provided in s. 285.69 (6). All moneys received from fees imposed under s. 285.69 (1),  
11          (1d), and (5), except moneys appropriated under par. (bi), shall be credited to this  
12          appropriation.

13          **SECTION 3.** 285.01 (17m) of the statutes is created to read:

14          285.01 (17m) "Entire facility" means all stationary sources that are under the  
15          control of one person or under the control of persons who are under common control  
16          and that are located on contiguous properties.

17          **SECTION 4.** 285.69 (1d) of the statutes is created to read:

18          285.69 (1d) REQUEST FOR WAIVER OF CONSTRUCTION PERMIT REQUIREMENT. An  
19          owner or operator that requests a waiver under s. 285.60 (5m) of the requirement to  
20          obtain a construction permit shall pay to the department a fee of \$300.

1           **SECTION 5.** 285.69 (1g) of the statutes is created to read:

2           **285.69 (1g) ANNUAL FEES FOR OPERATION PERMIT EXEMPTION.** The owner or  
3 operator of a stationary source that is exempt from the requirement to obtain an  
4 operation permit under s. 285.62 shall pay to the department a fee of \$300 per year  
5 if the stationary source had actual emissions of a regulated pollutant in excess of 3  
6 tons in the preceding year.

7           **SECTION 6.** 285.69 (2) (title) of the statutes is amended to read:

8           **285.69 (2) (title) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER**  
9 **FEDERAL LAW.**

10          **SECTION 7.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

11          **285.69 (2) (a) (intro.)** The department shall promulgate rules for the payment  
12 and collection of fees by the owner or operator of a stationary source for which an  
13 operation permit is required under the federal clean air act. The rules shall provide  
14 all of the following:

15          **SECTION 8.** 285.69 (2m) of the statutes is created to read:

16          **285.69 (2m) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER STATE**  
17 **LAW. (a) *Registration operation permits.*** The owner or operator of an entire facility  
18 for which an operation permit is required under s. 285.60 but not under the federal  
19 clean air act shall pay to the department a fee of \$1,500 per year if the entire facility  
20 was covered by a registration operation permit under s. 285.60 (2g) in the preceding  
21 year.

22          **(b) *General operation permits.*** The owner or operator of an entire facility for  
23 which an operation permit is required under s. 285.60 but not under the federal clean  
24 air act shall pay to the department a fee of \$1,500 per year if the entire facility was  
25 covered by a general operation permit under s. 285.60 (3) in the preceding year.

(c) *Operation permits for other sources.* The owner or operator of an entire facility for which an operation permit is required under s. 285.60 but not under the federal clean air act shall pay to the department a fee of \$3,000 per year if the entire facility was not covered by a registration operation permit under s. 285.60 (2g) or by a general operation permit under s. 285.60 (3) in the preceding year.

(d) *Use of fees.* The fees collected under this subsection and sub. (1g) shall be credited to the appropriation account under s. 20.370 (2) (bh) for the following purposes as they relate to stationary sources for which an operation permit is required under s. 285.60 but not under the federal clean air act:

1. The costs of reviewing and acting on applications for operation permits; implementing and enforcing operation permits except for court costs or other costs associated with an enforcement action; monitoring emissions and ambient air quality; preparing rules and materials to assist persons who are subject to the operation permit program; ambient air quality modeling; preparing and maintaining emission inventories; and any other direct and indirect costs of the operation permit program.

2. Costs of any other activities related to stationary sources of air contaminants.

**SECTION 9435. Effective dates; natural resources.**

(1) AIR MANAGEMENT FEES. The treatment of sections 20.370 (2) (bh) and (ci), 285.01 (17m), and 285.69 (1d), (1g), (2) (title) and (a) (intro.), and (2m) of the statutes takes effect on January 1, 2006.

**(END)**



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1360/2  
RCT:cjs&wlj:jf

DOA:.....Percy, BB0335 - Changes to air management fees

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

---

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**AIR QUALITY**

Currently, the federal government has delegated to DNR the authority to administer the federal Clean Air Act in this state. The Clean Air Act requires certain stationary sources of air pollution, such as large factories, to obtain operation permits. State law requires additional stationary sources of air pollution to obtain operation permits. Under current law, DNR promulgates rules setting fees to be paid by the operator of any stationary source for which an operation permit is required. The fees are based on the amount of pollutants that a stationary source emits.

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For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 20.370 (2) (bh) of the statutes is created to read:

2       20.370 (2) (bh) *Air management — state permit sources.* The amounts in the  
3       schedule for purposes related to stationary sources of air contaminants for which an  
4       operation permit is required under s. 285.60 but not under the federal clean air act  
5       as specified in s. 285.69 (2m) (d). All moneys received from fees collected under s.  
6       285.69 (1g) and (2m) shall be credited to this appropriation account.

      \*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

7       **SECTION 2.** 20.370 (2) (ci) of the statutes is amended to read:

8       20.370 (2) (ci) *Air management — permit review and enforcement.* The  
9       amounts in the schedule for any purpose specified under s. 285.69 (1) or (5), except  
10      for purposes described in par. (bi), and for other activities to reduce air pollution, as  
11      provided in s. 285.69 (6). All moneys received from fees imposed under s. 285.69 (1),  
12      (1d), and (5), except moneys appropriated under par. (bi), shall be credited to this  
13      appropriation.

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15      285.01 (17m) “Entire facility” means all stationary sources that are under the  
16      control of one person or under the control of persons who are under common control  
17      and that are located on contiguous properties.

18      **SECTION 4.** 285.69 (1d) of the statutes is created to read:

1           **285.69 (1d)** REQUEST FOR WAIVER OF CONSTRUCTION PERMIT REQUIREMENT. An  
2 owner or operator that requests a waiver under s. 285.60 (5m) of the requirement to  
3 obtain a construction permit shall pay to the department a fee of \$300.

4           **SECTION 5.** 285.69 (1g) of the statutes is created to read:

5           **285.69 (1g)** ANNUAL FEES FOR OPERATION PERMIT EXEMPTION. The owner or  
6 operator of a stationary source that is exempt from the requirement to obtain an  
7 operation permit under s. 285.62 shall pay to the department a fee of \$300 per year  
8 if the stationary source had actual emissions of a regulated pollutant in excess of 3  
9 tons in the preceding year.

10          **SECTION 6.** 285.69 (2) (title) of the statutes is amended to read:

11          **285.69 (2)** (title) FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER  
12 FEDERAL LAW.

13          **SECTION 7.** 285.69 (2) (a) (intro.) of the statutes is amended to read:

14          **285.69 (2) (a)** (intro.) The department shall promulgate rules for the payment  
15 and collection of fees by the owner or operator of a stationary source for which an  
16 operation permit is required under the federal clean air act. The rules shall provide  
17 all of the following:

18          **SECTION 8.** 285.69 (2m) of the statutes is created to read:

19          **285.69 (2m)** FEES FOR PERSONS REQUIRED TO HAVE OPERATION PERMITS UNDER STATE  
20 LAW. (a) *Registration operation permits.* The owner or operator of an entire facility  
21 for which an operation permit is required under s. 285.60 but not under the federal  
22 clean air act shall pay to the department a fee of \$1,500 per year if the entire facility  
23 was covered by a registration operation permit under s. 285.60 (2g) in the preceding  
24 year.

1           (b) *General operation permits.* The owner or operator of an entire facility for  
2           which an operation permit is required under s. 285.60 but not under the federal clean  
3           air act shall pay to the department a fee of \$1,500 per year if the entire facility was  
4           covered by a general operation permit under s. 285.60 (3) in the preceding year.

5           (c) *Operation permits for other sources.* The owner or operator of an entire  
6           facility for which an operation permit is required under s. 285.60 but not under the  
7           federal clean air act shall pay to the department a fee of \$3,000 per year if the entire  
8           facility was not covered by a registration operation permit under s. 285.60 (2g) or by  
9           a general operation permit under s. 285.60 (3) in the preceding year.

10          (d) *Use of fees.* The fees collected under this subsection and sub. (1g) shall be  
11          credited to the appropriation account under s. 20.370 (2) (bh) for the following  
12          purposes as they relate to stationary sources for which an operation permit is  
13          required under s. 285.60 but not under the federal clean air act:

14           1. The costs of reviewing and acting on applications for operation permits;  
15           implementing and enforcing operation permits except for court costs or other costs  
16           associated with an enforcement action; monitoring emissions and ambient air  
17           quality; preparing rules and materials to assist persons who are subject to the  
18           operation permit program; ambient air quality modeling; preparing and  
19           maintaining emission inventories; and any other direct and indirect costs of the  
20           operation permit program.

21           2. Costs of any other activities related to stationary sources of air  
22           contaminants.

23           **SECTION 9435. Effective dates; natural resources.**

4 (END)